

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JIM B. ESTES, PRO SE, §
also known as CATFISH JIM ESTES, §
also known as JIM ESTES, §
also known as J. B. ESTES, §
also known as JAMES BYERS ESTES, JR., §
TDCJ-CID No. 1003415, §
Previous TDCJ-CID No. 450903, §
Previous TDCJ-CID No. 816608, §
Previous TDCJ-CID No. 292511, §
NVID No. 29107, §
LVFCI No. 29108-048, §
§
Plaintiff, §
§
v. § 2:11-CV-0023
§
JAVET RAHORST ET AL., §
§
Defendants. §

**ORDER DISMISSING CLAIMS CONCERNING
DISCONTINUATION OF PAIN MEDICATION AND DECLARING THE
REMAINDER OF DEFENDANTS' MOTION TO DISMISS UNDER RULE 12(b)(6) OR,
ALTERNATIVELY, MOTION FOR A RULE 7(a) REPLY TO BE MOOT**

Plaintiff JIM B. ESTES, acting pro se and while a prisoner in the Texas department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against various defendants employed by or otherwise associated with the Texas Department of Criminal Justice and has been granted permission to proceed in forma pauperis.

On January 24, 2012, a Report and Recommendation was issued by the United States Magistrate Judge recommending that plaintiff's claims concerning discontinuation of his

prescriptions for Robaxin and Tramadol be dismissed for failure to state a claim on which relief can be granted; that the remainder of defendants' December 28, 2011 motion to dismiss under Rule 12(b)(6) or for a Rule 7(a) reply be denied without prejudice to being reasserted following an answer.

No objections were filed. Instead, defendants filed a February 3, 2012 answer and a February 7, 2012 amended motion for Rule 7(a) reply, which was granted by on February 8, 2012.

Thus, it appears that, with the exception of the analysis of plaintiff's claims concerning discontinuation of his pain medication (Robaxin and Tramadol), the Report and Recommendation is without practical effect and is MOOT.

As to plaintiff's claims concerning the discontinuation of his prescriptions for Robaxin and Tramadol, the Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court as it deals with plaintiff's claims concerning discontinuation of his prescriptions for Robaxin and Tramadol.

This Court, therefore, does hereby ADOPT the January 20, 2012 Report and Recommendation of the United States Magistrate Judge as it deals with plaintiff's claims concerning discontinuation of his prescriptions for Robaxin and Tramadol.

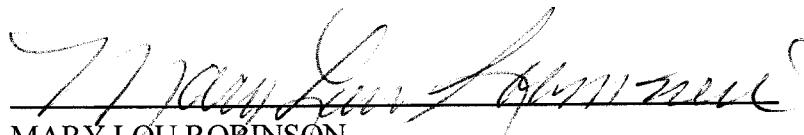
IT IS HEREBY ORDERED that plaintiff's claims concerning discontinuation of his pain medications (Robaxin and Tramadol) are DISMISSED FOR FAILURE TO STATE A CLAIM

ON WHICH RELIEF CAN BE GRANTED. The remainder of defendants' December 28, 2011 motion to dismiss under Rule 12(b)(6) or for a Rule 7(a) reply is MOOT.

This Order terminates docket entry nos. 68 and 72.

It is SO ORDERED.

Signed this the 28 day of August, 2012.


MARY LOU ROBINSON
United States District Judge